

9453.1989(04)

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

APR 18 1989

Mr. Eric E. Boyd  
Sidley & Austin  
One First National Plaza  
Chicago, IL 60603

Dear Mr. Boyd:

This is in response to your letter of March 13, 1989 in which you requested clarification of the regulations that apply to still bottoms generated and removed from a recycling unit. Specifically, you inquired as to when the waste accumulation time begins in an on-site solvent recycling operation. The accumulation time for still bottoms resulting from the recycling of spent solvent begins when the still bottoms are removed from the distillation unit. The recycling unit is exempt from regulation, therefore, the still bottoms are considered to be a newly generated waste eligible for accumulation under the provisions of 40 CFR Section 262.34. They are also a "derived from" waste and carry the same EPA waste code as the spent solvent from which they were derived (40 CFR 261.3 (c)(2)(i)).

The spent solvent which is recycled by your client is a hazardous waste subject to regulation. The generator must determine his generator status, i.e. conditionally exempt generator (40 CFR Section 261.5), small quantity generator (40 CFR Section 262.34(d-f)), or large quantity generator (40 CFR Section 262.34(a-b)), based on the total amount of hazardous waste he generates in a calendar month, which includes the total amount of spent solvent before recycling. The accumulation time for the spent solvent under the provisions of 40 CFR Section 262.34 is 90 days, or 180 days if your client is a small quantity generator of between 100 and 1000 kilograms of hazardous waste in a month.

If we can be of any further assistance, please contact Emily Roth at (202) 382-4777.

RO 11420

Sincerely,

Original Document signed

Sylvia K. Lowrance  
Director  
Office of Solid Waste



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## Detailed Facility Report



Report Error

Data Dictionary

For Public Release - Unrestricted Dissemination Report Generated on 12/27/2007  
US Environmental Protection Agency - Office of Enforcement and Compliance Assurance

### Facility Permits and Identifiers

Data Dictionary

Statute	System	Source ID	Facility Name	Street Address	City	State	Zip
	FRS	110000796470	EASTERN PLATING CO INC	1200 SOUTH BAYLIS STREET	BALTIMORE	MD	21224
CAA	AFS	2451003190	EASTERN PLATING CO.	1200 BAYLISS STREET, SOUTH	BALTIMORE	MD	21224
RCRA	RCR	MDD063215453	EASTERN PLATING CO INC	1200 S BAYLIS ST	BALTIMORE	MD	21224

### Facility Characteristics

Data Dictionary

Statute	Source ID	Universe	Status	Areas	Permit Expiration Date	Latitude/ Longitude	Indian Country?	SIC Codes	NAICS Codes
	110000796470					LRT: 39.279248 , -76.568008	No		
CAA	2451003190	Minor (Not Fed.Rep.)	Operating	MACT (SECTION 63 NESHAPS), SIP			NA	3471	
RCRA	MDD063215453	LQG	Active (H )				No		332813

If the CWA permit is past its expiration date, this normally means that the permitting authority has not yet issued a new permit. In these situations, the expired permit is normally administratively extended and kept in effect until the new permit is issued.

For the RCRA program, activities that contribute to an overall facility status of Active are displayed in parentheses using the acronym HPACS, where H indicates handler activities, P - permitting, A - corrective action, C - converter, and S - state-specific. More information is available in the Data Dictionary.

### Inspection and Enforcement Summary Data

Data Dictionary

Statute	Source ID	Insp. Last 05Yrs	Date of Last Inspection	Formal Enf Act Last 05 Yrs	Penalties Last 05 Yrs
CAA	2451003190	0	07/19/2000	0	\$00
RCRA	MDD063215453	2	08/01/2003	0	\$00

### Compliance Monitoring History (05 years )

Data Dictionary

Statute	Source ID	Inspection Type	Lead Agency	Date	Finding
RCRA	MDD063215453	FOCUSED COMPLIANCE INSPECTION	State	07/16/2003	Violations Or Compliance Issues Were Found
RCRA	MDD063215453	NON-FINANCIAL RECORD REVIEW	State	08/01/2003	No Violations Or Compliance Issues Were Found

Entries in *italics* are not considered inspections in official counts.

**Compliance Summary Data**[Data Dictionary](#)

Information on the nature of alleged violations is available on the FAQ page.

Statute	Source ID	Current SNC/HPV?	Description	Current As Of	Qtrs in NC (of 12)
CAA	2451003190	N/A		11/24/2007	
RCRA	MDD063215453	No		11/25/2007	0

**Three Year Compliance Status by Quarter**[Data Dictionary](#)

Violations shown in a given quarter do not necessarily span the entire 3 months. Information on the nature of alleged violations is available on the FAQ page, and information on the duration of non-compliance is available at the end of this report.

**AIR Compliance Status**

Statute:Source ID	QTR1 Jan-Mar05	QTR2 Jan-Jun05	QTR3 Jul-Sep05	QTR4 Oct-Dec05	QTR5 Jan-Mar06	QTR6 Apr-Jun06	QTR7 Jul-Sep06	QTR8 Oct-Dec06	QTR9 Jan-Mar07	QTR10 Apr-Jun07	QTR11 Jul-Sep07	QTR12 Oct-Dec07
CAA: 2451003190												
HPV History												
Program/Pollutant in Current Violation												
MACT (SECTION 63 NESHAPS)	C- PROCED	C- PROCED	C- PROCED	C- PROCED	C- PROCED	C- PROCED	C- PROCED	C- PROCED	C- PROCED	C- PROCED	C- PROCED	C- PROCED
SIP	C-INSP	C-INSP	C-INSP	C-INSP	C-INSP	C-INSP	C-INSP	C-INSP	C-INSP	C-INSP	C-INSP	C-INSP

High Priority Violator (HPV) History section: "Unaddr" means the facility has not yet been addressed with a formal enforcement action. "Addr" means the facility has been addressed with a formal enforcement action, but its violations have not been resolved. Lead Agency designated can be US EPA, State, Both, or No Lead Determined. If HPV History is blank, then the facility was not a High Priority Violator. C=Compliance; V=Violation; S=Compliance Schedule.

**RCRA Compliance Status**

Statute:Source ID	QTR1 Jan-Mar05	QTR2 Apr-Jun05	QTR3 Jul-Sep05	QTR4 Oct-Dec05	QTR5 Jan-Mar06	QTR6 Apr-Jun06	QTR7 Jul-Sep06	QTR8 Oct-Dec06	QTR9 Jan-Mar07	QTR10 Apr-Jun07	QTR11 Jul-Sep07	QTR12 Oct-Dec07
RCRA: MDD063215453												
Facility Level Status	Compl	Compl	Compl	Compl	Compl	Compl	Compl	Compl	Compl	Compl	Compl	Compl
Type of Violation	Agency											

The first date displayed for a RCRA Violation corresponds to the violation determination date, and the next to the resolution date (if the violation has been resolved).

**Notices of Violation or Informal Enforcement - AFS, PCS, ICIS-NPDES, RCRAInfo (05 year history)**[Data Dictionary](#)

Statute	Source ID	Type of Action	Lead Agency	Date
RCRA	MDD063215453	SITE COMPLAINT	State	07/16/2003

**Formal Enforcement Actions - (05 year history)**

AFS, PCS, RCRAInfo, NCDB

[Data Dictionary](#)

Statute	Source ID	Type of Action	Lead Agency	Date	Penalty	Penalty Description
- No data records returned.						

In some cases, formal enforcement actions may be entered both at the initiation and final stages of the action. These may appear more than once above. Entries in *italics* are not "formal" actions under the PCS definitions but are either the initiation of an action or penalties assessed as a result of a previous action. This section includes US EPA and State formal enforcement actions under CAA, CWA and RCRA.

**ICIS**[Data Dictionary](#)

Primary Law/Section	Case Number	Case Type	Lead Agency	Case Name	Issued/Filed Date	Settlement Date	Federal Penalty	State/Local Penalty	SEP Cost	Comp Action Cost
- No data records returned.										

Federal enforcement actions and penalties shown in this section are from the Integrated Compliance Information System (ICIS-FE&C). These actions may duplicate records in the Formal Enforcement Actions section.

### TRI History of Reported Chemicals Released in Pounds per Year at Site:

[Data Dictionary](#)

Year /	Total Air Emissions	Surface Water Discharges	Underground Injections	Releases to Land	Total On-site Releases	Total Off-site Transfers	Total Releases and Transfers
- No data records returned.							

### TRI Total Releases and Transfers by Chemical and Year

Chemical Name	1993	1994	1995	1996	1997	1998	1999	2000	2001
- No data records returned.									

### Demographic Profile of Surrounding Area (3 Miles)

[Data Dictionary](#)

Open more detailed information in a new window (links leave OTIS): [1 Mi](#) [3 Mi](#) or [5 Mi](#).

This section provides demographic information regarding the community surrounding the facility. OTIS compliance data alone are not sufficient to determine whether violations at a particular facility had negative impacts on public health or the environment. Statistics are based upon the 2000 US Census data, and are accurate to the extent that the facility latitude and longitude listed below are correct. The latitude and longitude are obtained from the EPA Locational Reference Table(LRT) when available.

Radius of Area:	3 Miles	Land Area:	76.30%	Households in area:	67,795
Center Latitude:	39.279248	Water Area:	23.70%	Housing units in area:	80,479
Center Longitude:	-76.568008	Population Density:	7937.83/sq. mi.	Households On Public Assistance:	5,405
Total Persons:	171,219	Percent Minority:	55.08%	Persons Below Poverty Level:	40,828

Race Breakdown	Persons (%)	Age Breakdown:	Persons (%)
White:	78,936 (46.10%)	Child 5 years and less:	12,261 ( 7.16%)
African-american:	83,365 (48.69%)	Minors 17 years and younger:	39,803 (23.25%)
Hispanic-Origin:	4,841 ( 2.83%)	Adults 18 years and older:	131,416 (76.75%)
Asian/Pacific Islander:	2,713 ( 1.58%)	Seniors 65 years and older:	22,072 (12.89%)
American Indian:	982 ( 0.57%)		
Other/Multiracial:	2,224 ( 1.30%)		

Education Level (Persons 25 & older)	Persons (%)	Income Breakdown:	Households (%)
Less than 9th grade:	13,581 (12.35%)	Less than \$15,000:	19,386 (28.60%)
9th-12th grades:	27,166 (24.70%)	\$15,000-\$25,000:	10,768 (15.88%)
High School Diploma:	32,301 (29.37%)	\$25,000-\$50,000:	19,268 (28.42%)
Some College/2-yr:	18,093 (16.45%)	\$50,000-\$75,000:	9,918 (14.63%)
B.S./B.A. or more:	18,836 (17.13%)	Greater than \$75,000:	8,552 (12.61%)

Please note: Entries in gray denote records that are not federally required to be reported to EPA. These data may not be reliable.



This report was generated by the Integrated Data for Enforcement Analysis (IDEA) system, which updates its information from program databases monthly. The data were last updated: AFS: 11/24/2007. RCRAInfo: 11/25/2007. NCDB: 10/27/2006. FRS: 11/22/2007. ICIS: 11/27/2007.

Some regulated facilities have expressed an interest in explaining data shown in the Detailed Facility Reports in ECHO. Please check company web sites for such explanations.



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Last updated on December 27th, 2007

#### IV. Organization of the Regulation

After reviewing the comments regarding clarity and organization of the proposed regulation, EPA decided to change the format of the regulation. EPA believes that these changes clarify the duties and responsibilities of the generator, and therefore, will assist the generator in understanding the requirements of this regulation.

The first change in format involves restructuring the numbering system of the entire regulation. The proposed regulation was patterned on the outline of requirements identified by section 3002 of the Act, and was ordered accordingly. The final regulation has been reorganized to progress logically in the order in which the generator must act. EPA believes that the final regulation will be easier to understand and follow in its new format.

The final regulation has also been assigned a new Code of Federal Regulations Part number. All of the proposed Subtitle C regulations were assigned to 40 CFR Part 250. Standards for Generators was Subpart B of that Part. In the final version, each of the former Subparts has been assigned a Part number. Standards Applicable to Generators of Hazardous Waste is now 40 CFR Part 262. Similarly, Identification and Listing of Hazardous Waste (section 3001) will be published as 40 CFR Part 261, and Standards Applicable to Transporters of Hazardous Waste (section 3003) will be Part 263. Standards for Treatment, Storage, and Disposal Facilities (section 3004) will appear in Parts 264, 265, and 266.

Additional restructuring of the proposed Subpart involved moving provisions which are more properly addressed in other Parts of the final rule. For example, the small quantity generator and waste oil provisions have been moved to Part 261 because these standards are more closely associated with waste characterization than with the generator's duties and responsibilities. The proposed regulation allowed generators of waste oil to enter assumption of duties contracts with transporters. The assumption of duties provision was developed expressly for the purpose of reducing the administrative burden for the large number of generators of waste oil, many of whom generate small amounts. This provision has been deleted from the regulation because it does not address possible contractual arrangements by which parties may delegate to another person certain undertakings. Such delegation, however, does not relieve the principal party (here the generator)

from the responsibility of satisfying his statutory obligations.

Similarly, the manner in which retailers who generate hazardous waste will be subject to these regulations will be set forth in Part 261. In addition, the proposed generator regulations did not prescribe the specific steps a solid waste generator must take to determine whether his waste is hazardous. This determination was included in the proposed section 3001 regulations. Since this determination is one of the major responsibilities of the generator, the requirement for making this determination is now contained in this Part.

Because the Agency has not, at this time, determined what quantities of hazardous waste may be exempted from this regulation, the presumption of quantity generated for civil enforcement actions (§ 250.27(b) of the proposal) does not appear in this regulation.

The confidentiality provisions of each of the proposed rules have been consolidated in Part 260. These provisions will be promulgated at the same time as the sections 3001 and 3004 regulations.

The promulgation of regulations implementing sections 3001, 3004, and 3005 may affect the duties and responsibilities of generators. EPA will, if necessary, amend these regulations to reflect the provisions of those regulations at the time they are promulgated.

#### V. Definitions

As proposed, the definitions applicable to generator standards were included with the generator regulations in Subpart B, and definitions applicable to other Subparts were located in those Subparts. However, because many of the definitions apply to all the Subtitle C regulations, EPA decided to publish all of the definitions together in a separate Part, 40 CFR Part 260. Certain of these definitions which are necessary to understand this regulation are promulgated in today's Federal Register.

#### VI. Final Regulations

Part 262 is divided into five subparts: Subpart A, General; Subpart B, The Manifest; Subpart C, Pre-Transport Requirements; Subpart D, Recordkeeping and Reporting; and Subpart E, Special Conditions.

Subpart A includes general requirements applicable to every generator of hazardous waste. Subpart B sets forth the requirements of the manifest system, the central element of the hazardous waste tracking system. Subpart C includes requirements for pre-transport preparation of hazardous

waste and for short term on-site accumulation without a permit. Recordkeeping and reporting requirements, which constitute another essential element of the hazardous waste tracking system, are found in Subpart D. Finally, Subpart E covers international shipments of hazardous waste and farmers whose only hazardous waste is from pesticides.

#### A. General

##### 1. Purpose, Scope and Applicability.—

This section of the proposed rule covered many diverse subjects. It included requirements for State authorization to operate the hazardous waste management program, exemptions from the regulations for farmers, retailers, and households, and identification of generator responsibilities in specific situations (e.g., on-site versus off-site disposal). Several commenters suggested that the broad scope of this section would lead to confusion. In order to clarify the section, the final regulation has been reorganized. As discussed earlier, some of the provisions of this section were moved to Part 261 while others can be found in other sections of this Part. The final regulation in this section requires a generator who ships wastes off-site to comply with all of the requirements of this Part. Generators who treat, store, or dispose of their wastes on-site are required to comply only with certain sections of this Part (e.g., primarily those dealing with the determination of whether or not a waste is a hazardous waste).

Generators who engage in on-site treatment, storage, or disposal will be required to comply with the treatment, storage, and disposal standards promulgated pursuant to section 3004 and to obtain a permit pursuant to section 3005. The section 3004 standards will establish recordkeeping and reporting requirements and ensure adequate protection for human health and the environment at the entire facility. Requiring these on-site treaters, storers, and disposers to comply with all of these Part 262 regulations for generators would be duplicative and provide no increased protection for human health and the environment.

##### 2. Hazardous Waste Determination.—

This section establishes the procedure for determining whether a solid waste is a hazardous waste. A person who generates a solid waste must determine whether that waste is hazardous. The first step that the person should take is to determine if the waste is excluded from regulation under Part 261. The next step is to review the lists of hazardous waste set forth in Part 261. Even if his

waste is listed as hazardous waste, however, the person will have an opportunity to demonstrate pursuant to the procedures set forth in Part 261 that his waste is in fact not hazardous.

If the waste is not listed as hazardous, the person must then determine whether it is hazardous by either determining that it meets one or more of the characteristics of hazardous waste set forth in Part 261 or by applying his knowledge of the waste based on the processes or materials used. Part 261 will set forth test protocols and other methods for evaluating wastes for the specified characteristics of hazardous waste (e.g., corrosivity, ignitability) which will allow a person to determine conclusively whether his waste is hazardous. If on the basis of his review of the materials or processes used, the generator is certain about the nature of the waste, he may declare that it is either hazardous or nonhazardous.

The revised regulation is considerably simpler in its operation than the proposed rule. The proposed regulation had required those persons who knew or had reason to believe their waste was hazardous to determine whether the waste was hazardous by (a) examining the list of hazardous wastes; (b) testing the waste for EPA's characteristics in accordance with specified methods; or, (c) declaring that the waste was hazardous. The proposed regulations also required submission to EPA of data supporting that determination. In addition, generators were directed to retest nonhazardous waste annually and also whenever significant changes in process materials occurred. The principal changes in the final regulation are: (a) allowing declarations of nonhazardous waste; and (b) deleting entirely matters collateral to the determination, e.g., submission of data and requirements for retesting.

The deletion of the phrase persons who "know or have reason to believe" is not of great practical significance. The person who had no reason to believe his wastes were hazardous in the proposed regulation also has the basis to declare the waste nonhazardous. The revised final rule simply requires that this belief be based on an objective review of the materials and processes involved in the generation of the waste.

Several commenters stated that the Act imposes no obligation on generators to test their waste for characteristics of hazardous waste. In the view of the commenters, the only way that a waste can be considered hazardous for regulatory purposes is by EPA listing the particular waste as hazardous, pursuant to section 3001(b). Therefore, it was their position that the principal statutory

role that characteristics of hazardous wastes, identified pursuant to section 3001(b), were to play was to aid EPA in determining the wastes it should list. EPA disagrees that this interpretation of the Act. It is the position of the Agency that the inclusion of hazardous wastes in the regulatory system by reason of identified characteristics is appropriate. The role of characteristics in identifying hazardous wastes pursuant to section 3001(b) will be fully discussed in the material supporting the regulations implementing section 3001. In light of EPA's position on the role of hazardous waste characteristics, it is wholly appropriate for the Agency to require persons to evaluate their wastes in accordance with the characteristics. Generation of a hazardous waste and failure to comply with the regulations promulgated under Subtitle C of the Act may subject that person to the imposition of substantial civil and criminal penalties.

Several commenters felt that the cost of testing, coupled with potential penalties, would lead to declaring nonhazardous wastes as hazardous, thus overburdening the limited capacity of the system. A 'good faith' provision would, in their view, cut against this tendency by forgiving persons who decided not to test certain hazardous wastes.

The final rule responds to these comments in part by allowing increased flexibility to persons in determining whether their wastes are hazardous. A person may declare his waste hazardous or nonhazardous, but this must be based on his knowledge of the materials and processes involved. A person need not test to determine a waste nonhazardous, as required in the proposed rule, rather he may review the processes and materials used in the generation of that waste. If the review does not reveal evidence that the waste is hazardous, the person may declare the waste nonhazardous. This revision accommodates, in part, the concern of the commenters that the capacity of the system might be overburdened by the inclusion of nonhazardous wastes.

The Agency has, however, rejected the suggestion that a "good faith" mistake provision should be included in the regulation to excuse inadvertent mistakes in the determination of whether a waste is hazardous. The determination is the crucial, first step in the regulatory system, and the generator must undertake this responsibility seriously. The declaration provided for in the regulation must be based on factors which are subject to objective review. A deliberate or negligent

oversight, for example overlooking the presence of hazardous substances in the feedstock, would not support the declaration. A good faith mistake provision would, in certain circumstances, excuse a generator's failure to determine if a waste was hazardous if that error was caused by his negligence. EPA does not believe that inclusion of such a provision would be prudent. There is no requirement in the final regulations for periodic retesting or reevaluation; therefore, a negligent determination may have a long-term effect, allowing hazardous wastes to escape the stringent regulation that is necessary to protect human health and the environment. Second, inclusion of the provision would convert the determination into a subjective standard which would make enforcement of the provision difficult. EPA believes that retention of an objective standard better serves the Act's objectives. Prosecutorial discretion will suffice to protect persons who, despite all conscientious efforts, erred in the determination. It should also be noted that under section 3008 criminal sanctions pertain only to the knowing commission of certain acts. Persons may test their wastes pursuant to the test protocols and methods set forth in Part 261. This will allow the generator to determine conclusively whether his wastes have one or more of the characteristics of hazardous waste.

The deletion of the retesting requirements that were contained in the proposed regulations does not, of course, relieve a generator of solid waste from his continuing responsibility to know whether his wastes are hazardous. If there is a significant change in the materials, processes, or operation which indicate the waste has become hazardous, the generator must repeat the determination. EPA recognizes the potential burden that this places on certain manufacturers whose products, processes and wastes change frequently, for example chemical specialty producers or other batch-type producers. This burden is created, however, by the Act which demands special attention and care for the handling and management of hazardous wastes. Those persons whose wastes are sometimes hazardous and sometimes nonhazardous have the same obligation as any other generator to ensure that all their hazardous wastes are managed in accordance with the requirements of Subtitle C and regulations implementing those statutory provisions.

Several commenters stated that allowing declarations of the hazardous



nature of a waste was unwise because that would prevent the generator from providing proper information to subsequent handlers of the waste. This fear is, however, unfounded. The declaration which the regulation allows only pertains to determining whether the waste is subject to Subtitle C regulation. The manner of determining does not affect the operation of the other regulations. It does not relieve the generator of his responsibility to complete the manifest, use proper labels, containers and placards, or satisfy the reporting and recordkeeping requirements. All of these requirements call for the generator to have accurate knowledge of the waste. A declaration of the hazardous nature of the waste therefore demands that the generator have, or obtain prior to the effective date of the regulations, knowledge of the waste and its hazardous properties.

**3. EPA Identification Numbers.**—The final version of these regulations does not differ significantly from the proposal with respect to the requirements that every generator of hazardous waste obtain an EPA identification number before transporting, treating, storing, or disposing of hazardous waste.

This section also requires that generators offer their hazardous waste only to transporters, treaters, storers, or disposers who have received an EPA identification number, to assure that all hazardous waste is handled by such transporters and treatment, storage, and disposal facilities. This will assist EPA in identifying persons handling hazardous waste and will ensure that all transporters of hazardous waste are aware of relevant EPA and DOT regulations.

This section also provides the means by which generators who did not file a Notification of Hazardous Waste Activity under section 3010 of the Act during the initial 90 day notification period may obtain an EPA identification number. The same form is used for this and the section 3010 notification.

This section does not relieve a generator handling hazardous waste at the time of promulgation of 40 CFR Part 261 from the statutory obligation to file a Notification of Hazardous Waste Activity within 90 days of that promulgation. Timely submission of the notification is particularly important for those generators who engage in on-site treatment, storage, or disposal of hazardous wastes. Unless they notify EPA of their hazardous waste activity within the 90-day period these facilities will be ineligible for interim status pursuant to section 3005. Continued operation of a treatment, storage, or disposal facility without interim status

or a permit after the effective date of the section 3001 regulations is unlawful.

#### **B. Manifest**

Congress intended that the manifest play a central role in EPA's hazardous waste management system:

The manifest system is intended to serve as a check-against such practices [roadside dumping]. Originating with the generator, moving through the transportation stage, registered at an approved disposal site for the treatment, storage or disposal of such hazardous waste and returned to the generator, the manifest will give to each party in the chain of handling a record. It will also provide the Administrator with a clear record of the movement and final disposition of waste originating at any specific site. Such records will greatly assist the Administrator, or state, where appropriate, in its enforcement of the hazardous waste regulations. H.R. Rep. No. 1491, 94th Cong., 2d Sess. 27 (Sept. 9, 1976) (herein "H.R. Rep.")

As developed by EPA, the manifest serves three principal objectives in ensuring the proper management of hazardous wastes that are transported off the site of generation. First, it serves as a tracking device which creates clear lines of accountability among the participants in the hazardous waste system. In doing so, it becomes one of the primary links between the various actors, serving as one avenue of communication. Second, it, together with the other EPA and DOT transportation requirements, serves to protect human health and the environment during the transportation of hazardous waste by providing information on the waste to persons handling the waste and to emergency response personnel. Third, the manifest provides the principal basis for EPA's recordkeeping and reporting requirements.

An important consideration in developing the manifest system was to promote consistency with the requirements of DOT which regulates the transportation of hazardous materials. Consistency will not only minimize the potential burden of compliance on the regulated community, but more importantly it will also enhance in-transit safety by avoiding duplicative or inconsistent regulations which might hinder the performance of emergency response personnel.

**1. The manifest's role in EPA's hazardous waste tracking system.**—As discussed above, the operation of the manifest creates accountability for handling of the waste from the site of its generation to the site of its ultimate disposition. Each person who accepts and transports the waste will be identified on the manifest and, with limited exceptions, the signature of each

person will also be on the manifest, signifying acceptance of the waste.

The final regulation adopts one change which is designed to increase the tightness of this control system. The proposed regulation would have allowed the generator to designate any number of facilities on the manifest, leaving the transporter free to select any one of them. In practice, allowing the generator to list numerous facilities would enable the transporter to select the disposal facility, and his choice could be made on the basis of cost or convenience. The Agency decided to restrict this flexibility in the final regulation. One problem addressed by RCRA was that generators frequently do not take responsibility for their wastes, but select waste haulers purely on the basis of price, without consideration of the ultimate disposal of the waste. The Agency believes that one way to address this problem is to limit the activities of the waste hauler to the transportation of wastes and to make the generator responsible for determining where the waste will be disposed of and ensuring that it gets there. Therefore, this section has been revised to require the generator to designate one facility on the manifest. Further, the generator must ascertain that the designated facility is permitted to accept his particular waste. The permit for the particular facility may allow a site to handle only certain types of wastes; for example, a facility may not be permitted to handle volatile wastes. Requiring the generator to determine that the facility is permitted to handle the waste being shipped increases the likelihood that the waste will receive proper disposal, storage, or treatment.

The final regulation allows the generator to list on the manifest an alternate facility. If the transporter is unable to deliver the waste to the designated facility because circumstances (e.g., labor strike, fire, or other emergency) prevent delivery, the transporter may deliver the waste to the alternate facility. This facility must, of course, be permitted to handle the waste.

If it is impossible to deliver the waste to either of the facilities designated on the manifest, the transporter must contact the generator who must either designate another facility or instruct the transporter to return the waste. The transporter must revise the manifest in accordance with the generator's instructions.

EPA believes that in practice most generators will have contracted with specific facilities to handle their waste and that there will be substantial

communication between these parties on the quantities and nature of the wastes being shipped to the facility. EPA has, at this time, chosen not to formalize the type of contact and communication required between the generator and the owner/operator of the facility. However, EPA is presently considering, and may soon propose, a regulation that will require prior notification to the owner/operator of the facility of shipments of hazardous waste in order to ensure delivery. Such a regulation would, EPA anticipates, simply be incorporating responsible business practices.

**2. Flexibility of the Manifest Document.**—In the proposed regulations, EPA did not set forth a required form for the manifest (a suggested format was included for illustrative purposes), but rather stated the required information must accompany the waste. This approach, in the Agency's view, would allow the regulated community to adapt its present practices, notably DOT's requirements for shipping papers, to accommodate the new EPA requirements. For the transportation of hazardous materials, DOT does not require a specific form, but rather requires each transport vehicle to carry required information.

A number of commenters, however, urged the creation of a uniform national manifest form. It was suggested that differing requirements among States might result in confusion and compliance difficulties for interstate transportation of hazardous waste. Commenters also stated that a national form would be simpler to use. Other commenters, however, felt that EPA should retain the flexibility of the proposed rule, particularly because of the interest of the States to adapt the manifest requirements to their own special needs and interests.

In the final regulations, EPA decided to retain the flexible approach of the proposed regulation. The information requirements of the manifest have been revised and the manifest will, in most situations, be able to serve as the shipping paper required by DOT's hazardous materials transportation regulations. Creation of a separate form in addition to DOT's shipping paper would have drastically increased the administrative burden imposed on the regulated community with no increase in the protection of human health and the environment in transportation of hazardous waste. Furthermore, creation of a single form, satisfying both EPA's and DOT's information requirements, was rejected as too rigid an approach to account satisfactorily for all

transportation practices. Nothing precludes industry from developing their own forms. Because the use of a single form would not increase the protection of human health and the environment, EPA chose to retain the flexibility of the manifest format.

The issue of State manifest requirements will be addressed by regulations implementing section 3006 of the Act, which will set forth the minimum requirements a State hazardous waste management program must meet to be equivalent or substantially equivalent to the EPA program. It is important to note in this respect that DOT has the authority to preempt shipping paper requirements which are inconsistent with its regulations, so the final decision on State manifest requirements may rest with DOT.

**3. Information Required on the Manifest.**—Section 282.21 lists the information that generators are required, at a minimum, to provide on the manifest. This information is less extensive than that contained in the proposed regulation. The information is essentially that which is necessary to identify accurately the persons handling the waste, and the type and quantity of the waste. This simplified manifest will greatly reduce the burden placed on the transportation industry and enhance the flexibility of the system. Most importantly, EPA has determined that this basic information, together with the other transportation requirements of DOT and EPA, are sufficient to safeguard human health and environment during transportation. The information needed for in-transit safety and for handling discharges will come not only from the manifest but also from the labeling, marking, and placarding requirements of DOT's and EPA's regulations.

The proposed regulation would have required the use of an EPA shipping description and hazard class if DOT had no specific proper shipping name or hazard class for the particular waste. In the final regulation, the manifest must only contain the DOT proper shipping description (which includes, among other things, the shipping name and hazard class). EPA determined that requiring the addition of EPA's nomenclature would not increase the protection of human health and the environment during the transportation of hazardous waste. The DOT nomenclature, with which emergency response personnel and the transportation industry are already familiar, provide adequate in-transit protection to human health and the

environment. The use of two systems of nomenclature on one document would not increase this protection, and might reduce it by creating confusion for emergency response personnel. Accordingly, that requirement has been deleted from the final regulation.

The proposed regulation required that the generator either describe on the manifest what immediate actions should be taken in the event of a discharge of hazardous waste or provide a 24-hour telephone number where additional information could be obtained. In addition, the proposal required that the telephone number of the National Response Center be listed. On this point, a variety of comments were received. Many of these stated that the proposed requirements were confusing and unclear, others said that the requirements were duplicative or inconsistent with other regulatory provisions under the Hazardous Materials Transportation Act and the Clean Water Act, and others argued that more information concerning spill response would provide greater protection for human health and the environment.

In response to these comments and in cooperation with DOT, EPA decided to delete any specific requirement for including discharge response information on the manifest. DOT requires transporters to be aware of and comply with DOT spill response procedures, and to know the toll-free telephone number of the U.S. Coast Guard's National Response Center. DOT has proposed regulations which would adopt a hazardous materials identification number which, when used with an accompanying manual, will key emergency personnel to the proper response to the discharge of hazardous material. Upon adoption, these regulations will be applicable to transporters of hazardous waste. (The hazardous materials identification number will appear on the manifest and on each container.) The manifest will include the generator's telephone number. This will enable the transporter and emergency personnel to obtain further information on the appropriate steps to take in the event of a spill. EPA has determined that adequate protection of human health and the environment will be provided by compliance with DOT regulations.

In the final regulations, two other changes in the information requirements for the manifest have been made from the proposed regulations. First, in the proposed regulation, only English units of measure were listed. A number of commenters suggested that metric units